



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: MARCH 09, 2023

IN THE MATTER OF:

Appeal Board No. 626845

PRESENT: MICHAEL T. GREASON, MEMBER

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective September 1, 2022, on the basis that the claimant lost employment through misconduct in connection with that employment and holding that the wages paid to the claimant by ST PETER'S HEALTH PARTNERS prior to September 1, 2022, cannot be used toward the establishment of a claim for benefits. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There were appearances by the claimant and on behalf of the employer. By decision filed November 14, 2022 (), the Administrative Law Judge overruled the initial determination.

The employer appealed the Judge's decision to the Appeal Board. The Board considered the arguments contained in the written statement submitted by the employer.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant worked for the employer, a physicians' practice, as a certified medical assistant from September 2, 2021, to August 31, 2022. The employer's integrity policy requires employees to protect the privacy and confidentiality of protected health information, such as any information that identifies, or can be used to identify, a patient. This includes information relative to whether a patient has an appointment with the employer. The claimant received training on the foregoing, which included that

the consequences of breaching a patient's privacy could result in the termination of employment.

On August 31, 2022, an inmate from a local jail was brought to the employer's facility for a medical appointment. The patient arrived with security guards. The claimant recognized the patient as someone she has known since childhood and telephoned her sister to tell her that he was at the facility. The claimant's actions were observed by one of the security guards, who reported it. The employer immediately investigated the matter.

During the investigation, the claimant ultimately admitted that she had called her sister to tell her that the patient was present at the facility. She also admitted that she knew that she should not have done so but did it anyway because of her acquaintance with the patient. The employer discharged the claimant because her actions had violated its patient privacy policy.

OPINION: The credible evidence established that the claimant violated the employer's patient privacy policy when she notified a family member of a certain patient's presence at a medical appointment in the employer's facility. We note that the claimant admitted to engaging in this conduct. We find that as she was aware of the employer's policy prohibiting it, she knew, or should have known, that her actions would jeopardize her employment.

The claimant provided varying accounts of how the incident arose, including an assertion that the patient directed her to contact her sister and tell her that he said "hello." However, none of these accounts provide her with a compelling reason for her actions. Even if the patient in fact had made such a request, it was incumbent upon the claimant to disregard it and instead observe and comply with the employer's established protocols. The claimant's actions were detrimental to the employer's interests and constitute misconduct for unemployment insurance purposes. Accordingly, we conclude that her employment ended under disqualifying circumstances.

DECISION: The decision of the Administrative Law Judge is reversed.

The initial determination, disqualifying the claimant from receiving benefits, effective September 1, 2022, on the basis that the claimant lost employment through misconduct in connection with that employment and holding that the wages paid to the claimant by prior to September 1, 2022, cannot be used toward the establishment of a claim for benefits, is

sustained.

The claimant is denied benefits with respect to the issues decided herein.

MICHAEL T. GREASON, MEMBER